



## STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE ENROLLED BILL ANALYSIS

Date Amended:	<b>Enrolled</b>	Bill No:	<b>SB 497</b>
Tax:	<b>Marine Invasive Species Fee</b>	Author:	<b>Simitian</b>
Related Bills:			

*This analysis will only address the bill's provisions that impact the Board.*

### **BILL SUMMARY**

Among other things, this bill would delete the repeal date and make the fee permanent.

### **ANALYSIS**

#### **Current Law**

Under existing law, Section 71215 of the Public Resources Code requires the State Lands Commission (Commission) to establish a reasonable and appropriate fee in an amount not to exceed one thousand dollars (\$1,000) per qualifying voyage, through regulation, to carry out the Marine Invasive Species Act (Division 36 of the Public Resource Code (commencing with Section 71200)). As of September 1, 2005, the fee was set at \$400 per qualifying voyage. The amount of the fee may be adjusted for inflation every two years.

Under Part 22.5 (commencing with Section 44000) of Division 2 of the Revenue and Taxation Code, known as the Marine Invasive Species Fee Collection Law, the Board collects the fee from the owner or operator of each vessel that arrives at a California port or place from a port or place outside of California. The fee is not assessed on any vessel arriving at a California port or place if:

- That vessel comes directly from another California port or place, and
- During that transit has not first arrived at a port or place outside California or moved outside the exclusive economic zone (EEZ), i.e. beyond 200 nautical miles, prior to arrival at the subsequent California port or place.

The fees imposed are deposited into the Marine Invasive Species Control Fund.

Existing statute specifies a sunset date of January 1, 2010, for both the Marine Invasive Species Act and the Marine Invasive Species Fee Collection Law (see Section 71271 of the Public Resources Code and Section 44008 of the Revenue and Taxation Code, respectively).

*This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.*

### Proposed Law

Among other things, this bill would repeal Section 44008 of the Revenue and Taxation Code which contains the sunset date of the fee under the Marine Invasive Species Fee Collection Law. This bill would also amend Section 71271 of the Public Resources Code to delete the sunset date of the Marine Invasive Species Act. The bill, however, leaves intact the Commission's authority to recommend repeal of the program if it finds that a federal program is equally or more effective than state laws and regulations.

### Background

In 1999, Assembly Bill 703 (Ch. 849, Stats. 1999) added Division 36 (commencing with Section 71200) to the Public Resources Code to address the introduction of nonindigenous aquatic species into waters of the state or into waters that may impact waters of the state. Among other things, that bill required the Board to collect a fee from the owner or operator of each vessel that enters a California port with ballast water loaded from outside the EEZ.

Assembly Bill 2380 (Ch. 110, Stats. 2000) added the Ballast Water Management Fee Law to provide necessary fee collection and other administrative provisions required for the Board to comply with the requirement to collect the Ballast Water Management Fee.

Assembly Bill 433 (Ch. 491, Stats. 2003) renamed the Ballast Water Management Fee Law to the Marine Invasive Species Fee Collection Law and, among other things, established the Marine Invasive Species Control Fund and changed the sunset date from January 1, 2004, to January 1, 2010.

### COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by Ocean Conservancy and is intended to enact performance standards to reduce the rate of bioinvasions from ships' ballast water tanks and to continue the fee program indefinitely.
2. **Key amendments.** The **May 22, 2006** amendments deleted the repeal date of the Marine Invasive Species Fee Collection Law and deleted the sunset date of the Marine Invasive Species Act. The subsequent amendments on **June 8, 2006**, **June 22, 2006**, and **August 7, 2006**, were technical amendments unrelated to the Board's collection of the fee.
3. **Provisions would not be problematic to administer.** Enactment of this measure would not materially affect the Board's administration of the current Marine Invasive Species Fee program since it simply extends but does not change the Board's administration of the program.

### COST ESTIMATE

The Board incurs ongoing costs to administer the Marine Invasive Species Fee Collection Law. Operating costs involve tasks relating to registration, processing, reconciliation and verification of returns, issuing billings, and collection of the fees.

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The Board would expect to continue to receive reimbursement for its expenses according to a contract with the State Lands Commission. The current contract is effective until the end of the 2006 – 07 fiscal year.

### REVENUE ESTIMATE

With its inception on January 1, 2000, the Ballast Water Management for Control of Nonindigenous Species Act of 1999 established a statewide, multi-agency program to prevent or reduce the introduction and spread of nonindigenous aquatic species into the state waters. In 2003, the Marine Invasive Species Act went into effect. In general, the owner or operator of each vessel that arrives at a California port or place from a port or place outside of California is required to pay a fee not exceeding \$1000 per voyage. The fee rate is established by the Commission and collected by the Board.

Based on the Board's annual report, the following depicts revenues generated since the program's inception:

1999 – 00 (1/2 year)	\$1.50 million
2000 – 01	\$2.62 million
2001 – 02	\$2.35 million
2002 – 03	\$1.14 million
2003 – 04	\$1.89 million
2004 – 05	\$3.52 million

The fee amount set by the State Lands Commission and applied to each qualifying voyage has varied from a low of \$200 to a high of \$500. The most recent rate change was effective September 1, 2005, and lowered the rate from \$500 to \$400 per qualifying voyage. The Governor's revised budget lists the 2005 – 06 revenue for the Marine Invasive Species Control Fund at \$3.40 million and maintains that amount for the 2006 – 07 fiscal year.

### Revenue Summary

This bill would not affect the number of vessels subject to the Marine Invasive Species Fee and makes permanent the program by deleting the repeal date. The fee is estimated to raise funds consistent with previous amounts, subject to changes in the rate.

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